

# Notice of Allowability

Application No.

10/630,904

Examiner

Johnnie L. Smith II

Applicant(s)

GRUBER ET AL.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP. 1308.

1. ☒ This communication is responsive to RCE/IDS filed 01/08/2007.
2. ☒ The allowed claim(s) is/are 20, 22-24, 26, 28, 30-32, 34, 61-63, 66-68, 70, 105, 106, 108-136, 138-159 and 161.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 0108
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. As indicated in detailed office action dated 10/19/2006, claims 20, 22-24, 26, 28, 30-32, 39, 61-63, 66-68, 70, 105-106, 108-136, 138-159, and 161 are allowed.
2. The following is an examiner's statement of reasons for allowance: the prior art searched and cited failed to teach or fairly suggest a method of sorting objects comprising: distributing the objects over a surface of a structure; and evaluating the objects in said structure according to a predetermined criteria using a beam steering apparatus in combination with the remaining elements of claims 20, 30, 61, 66, 69, and 70. The prior art searched and cited failed to teach or fairly suggest an apparatus for sorting objects comprising: a beam steering apparatus including: a laser which provides a laser beam for illumination; a diffractive optical element which diffracts said beam into a plurality of beamlets and an objective lens which converges the beamlet thereby producing optical gradient conditions resulting in an optical data stream to form an optical trap and a sample chamber into which the objects are introduced trapped and sorted in combination with the remaining elements of claims 105, 111-113, 141, 150, 155, and 161. All remaining are allowable because of their dependencies.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnnie L. Smith II whose telephone number is 571-272-2481. The examiner can normally be reached on Monday-Friday 6-2:30 P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on 571.272.2293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JLSII

Johnnie L Smith II  
Examiner  
Art Unit 2881



**NIKITA WELLS**  
**PRIMARY EXAMINER**  
03/02/07